Learned counsel for the appellant did not appear to wish to pursue the other point he had raised in the court below i.e. that the cause of action accrued from the date of the notice, that is August 13, 1975 so that in filing the suit on September 19, 1975 he had commenced action well within time. Even if he had been unaware on May 14, 1969 that the contract of sale had been completed on that day, he had certainly found out by September 5, 1970 that the land had been sold, so that time would begin to run from the date the alleged fraud came to his notice (see *Gibbs* v. *Guild*[5]). Therefore, even if there had been fraud on the part of the Official Assignee the appellant would be clearly out of time.

The appeal is therefore dismissed with costs.

Lee Hun Hoe C.J. (Borneo) concurred.

Appeal dismissed.

Solicitors: *Balendran & Chong; Nik Hussain, Ibrahim, Tan & Abdullah.*

LIM HANG SEOH v. PUBLIC PROSECUTOR

[F.C. (Suffian L.P., Gill C.J. (Malaya) and Chang Min Tat F.J.) October 1 and 4, 1977]

[Kuala Lumpur — F.C. Criminal Appeal No. 54 of 1977]

Criminal Law and Procedure — Sentence — Boy of 14 years found guilty of offences of possession of pistol and ammunition — Security offence — Mandatory sentence — Essential (Security Cases) Regulations 1975 — Internal Security Act, 1960, s. 57.

In this case the appellant, a boy of 14 years had been found guilty of the offence of possession of a pistol and ammunition and had been sentenced to death under section 57 of the Internal Security Act. He appealed to the Federal Court.

Held, dismissing the appeal: (1) the learned trial judge was right in concluding that the appellant knew that the bag found in his possession contained a pistol and ammunition;

(2) in view of the provisions of regulation 3 of the Essential (Security Cases) Regulations, 1957, there was only one sentence authorised by law for each of the offences and that is the sentence of death.

The following cases were cited in argument: *Tai Chai Keh* v. *Public Prosecutor* [1948-49] M.L.J. Supp. 86, 88-9; *Chye Chong* v. *Public Prosecutor* [1975] 1 M.L.J. 214; *Public Prosecutor* v. *Sivasupramaniam* [1969] 2 M.L.J. 86, 88-89; *R.* v. *Chief Immigration Officer* [1976] 3 All E.R. 843, 847f.; *R.* v. *Secretary of State* [1976] 2 All E.R. 1081, 1083 *b*1.

FEDERAL COURT.

Karpal Singh (*S.T. Lee* with him) for the appellant.

Faidz bin Mohamad Darus (Deputy Public Prosecutor) for the respondent.

Suffian L.P. (delivering the judgment of the Court): We dismissed this appeal. There were two principal points involved. First, was the accused aware of the contents of the bag? The appellant handled this bag on four separate occasions not once, and we have seen the bag and other exhibits. In view of the evidence we are of the opinion that the learned trial judge was right in concluding that the appellant knew that the bag contained a pistol and ammunition. Accordingly we dismissed the appeal against the conviction.

The second question related to the sentence. We considered Mr. Karpal Singh's submission and that of Encik Faidz and the written law cited. We are of the opinion that in view of the words "the Juvenile Courts Act, 1947, shall not apply to such person" in regulation 3(3) of the Essential (Security Cases) Regulations, 1975, there is only one sentence authorised by law for each of these offences and that is the sentence of death, despite the fact that the accused was only a boy of 14. We therefore affirm the sentenced passed on him.

Appeal dismissed.

Solicitors: *Karpal Singh & Co.*

PUBLIC PROSECUTOR v. TEH CHENG POH

[A.Cr.J. (Arulanandom J.) December 15, 1976]

[Penang — Miscellaneous Criminal Application No. 1 of 1976]

Internal Security — Offence — Decision to prosecute — Charge under Internal Security Act — Internal Security Act 1960, s. 57(1)(a) — Federal Constitution Art. 8(1).

Criminal Law and Procedure — Double jeopardy.

In this case the accused was charged with the offences of possession of a firearm and of ammunition punishable under section 57 of the Internal Security Act, 1960. At the trial certain preliminary objections were raised. It was argued (1) that the circumstances under which the accused was tried on the charge under the Internal Security Act have led to an infringement of Article 8(1) of the Federal Constitution which guarantees equal protection under the law; (2) that there had been no promulgation as to security areas under the Internal Security Act; (3) that this was a security matter and that the Internal Security Act was intended for combating political subversion and that security areas were intended to be limited areas in the Federation and not the whole of the Federation; (4) that as the accused had also been charged in the Magistrate's court for robbery and a preliminary inquiry was pending he could not be charged in the High Court for the offence, as this would mean he would be in jeopardy twice.

Held: (1) it is clear that when a person is charged under the Internal Security Act on a security offence there is no violation of article 8 of the Federal Constitution. It is not for the court to enquire why the Public Prosecutor had declared an offence a security offence;

(2) a person has to be convicted or acquitted before he could be said to be in double jeopardy.

Cases referred to:-

(1) *Public Prosecutor* v. *Khong Teng Khen & Anor.* [1976] 2 M.L.J. 166.

(2) *N. Madhavan* v. *Government of Malaysia* [1975] 2 M.L.J. 286.

(3) *Public Prosecutor* v. *Soon Seng Sia* (Penang — Criminal Trials Nos. 5, 6 & 7 of 1976, unreported).

(4) *Kathi Raning Rawat* v. *State of Saurashtra* A.I.R. 1952 S.C. 123.

(5) *Long bin Samat & Ors.* v. *Public Prosecutor* [1974] 2 M.L.J. 152, 158.